

APPEAL NO. 041012  
FILED JUNE 14, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 25, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury pursuant to Section 408.007 was \_\_\_\_\_; and that the claimant had disability from February 21 through May 4, 2003. The appellant (carrier) appeals the hearing officer's decision, contending that it is supported by insufficient evidence and that it is against the great weight and preponderance of the evidence. The claimant asserts that the hearing officer's decision is correct and requests affirmance.

DECISION

Affirmed.

An occupational disease includes a repetitive trauma injury. Section 401.011(34). The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities for the employer and that she had disability as a result of that injury. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she had disability as defined by Section 401.011(16). The date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 408.007. The evidence reflects that the claimant's work activities as a custodian included, among other things, lifting large bags of trash into a garbage dumpster. The required medical examination doctor reported that the claimant sustained a repetitive trauma injury due to her work activities. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determinations are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS PUBLIC WORKERS' COMPENSATION PROGRAM** and the name and address of its registered agent for service of process is

**JERRY EDWARDS  
101 HIGHWAY 281, SUITE 304  
MARBLE FALLS, TEXAS 78654.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge